

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re JDS UNIPHASE CORPORATION
SECURITIES LITIGATION

No. C 02-1486 CW

ORDER REGARDING
DEFENDANTS'
MOTION TO EXCLUDE
PLAINTIFFS'
EXPERTS

Defendants have filed a motion to exclude Plaintiffs' experts. The Court has reviewed the memorandum of points and authorities filed in support of that motion and finds that it does not contain citations to the pertinent pages of the expert reports. Absent such citation, the Court cannot evaluate Defendants' motion.

For example, in seeking to exclude the testimony of Scott Hakala, Defendants state,

According to Hakala, there was an "event" that caused inflation in JDSU's stock price on 42 days ("inflationary events"). Nearly 90% of these days (37 out of 42) do not match the 56 allegedly misleading statements identified.

Defendants' Motion at 5. However, Defendants do not cite specific paragraphs of Hakala's reports where these assertions are made or otherwise identify the forty-two or thirty-seven days to which they refer. In other instances, Defendants' motion cites to their experts' rebuttal reports, which in turn do not indicate the source of the information they discuss. For example, Defendants state,

1 Of Hakala's 35 "corrective events," 21 do not meet his
2 own test of statistical significance, meaning that
3 Hakala cannot establish that losses on these 21 days
were caused by company-specific information (whether
fraud-related or not).

4 Defendants Motion at 8. In support of this argument, Defendants
5 cite their expert Allen Kleidon's Rebuttal Report at paragraph 126.
6 In turn, Kleidon's report states, "of Hakala's 35 alleged
7 corrective disclosure dates . . . , 21 (or 60%) are not
8 statistically significant using a 95% one-tailed test." Kleidon
9 Rebuttal Report ¶ 126. The report does not indicate which twenty-
10 one statements are not statistically significant, nor does it
11 identify where the challenged information is located in Hakala's
12 report.

13 If Defendants wish their motion meaningfully considered, by
14 Monday, October 1, 2007 at 9:00 AM, they shall re-submit it,
15 modified to include citations to specific paragraphs and pages of
16 the relevant expert reports. Defendants shall also cite specific
17 pages when they refer to exhibits to reports and declarations. To
18 the extent they rely on their experts' rebuttal reports, Defendants
19 shall also submit amended reports that include references to the
20 paragraph and page of the analysis that the rebuttal reports
21 challenge.

22 IT IS SO ORDERED.

23
24 Dated: 9/28/07



CLAUDIA WILKEN
United States District Judge